

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

ROBERT WILK, ) Case No. 2:15-cv-01429-JCM-CWH  
Plaintiff, )  
v. )  
DWIGHT NEVEN, et al, ) **ORDER**  
Defendants. )

10 Presently before the Court is Defendants' motion to strike (ECF No. 61), filed on April 28,  
11 2017. Plaintiff did not file a response.

Defendants move to strike Plaintiff's renewed motion for summary judgment (ECF No. 57), arguing that it is a successive motion and duplicative of Plaintiff's first motion for summary judgment (ECF No. 46). The Ninth Circuit has held that "allowing a party to file a second motion for summary judgment is logical, and it fosters the just, speedy, and inexpensive resolution of suits." *Hoffman v. Tonnemacher*, 593 F.3d 908, 911 (9 th Cir. 2010) (internal quotation marks omitted). However, as Defendants note, courts "retain discretion to weed out frivolous or simply repetitive motions." *Id.*

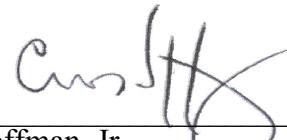
19 Defendants also argue that the Court should strike Plaintiff's motion because the scheduling  
20 order in this case (ECF No. 40) does not allow for successive motions, and Plaintiff did not seek  
21 leave of the Court to file one. While it is true that the scheduling order does not explicitly provide  
22 for successive motions for summary judgment, it does not preclude them either. The only limitation  
23 the scheduling order places on motions for summary judgment is that they be filed no later than 30  
24 days after the close of discovery on June 10, 2017. Plaintiff's motion is therefore timely and does  
25 not violate any terms of the scheduling order.

26 Further, while Plaintiff's renewed motion for summary judgment does repeat some arguments  
27 from the previous motion, it also contains arguments and exhibits not previously included. The

1 Court finds that the motion is neither duplicative nor frivolous. Therefore, the Court will consider  
2 both of Plaintiff's motions for summary judgment.

3 IT IS THEREFORE ORDERED that Defendant's motion to strike (ECF No. 61) is DENIED.

4 DATED: May 18, 2017.



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6 C.W. Hoffman, Jr.  
7 United States Magistrate Judge

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